

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:22-cv-634-RJC-DSC

RUSSEL DUNBAR SMITH, JR.,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES GOVERNMENT,)	
)	
Defendant.)	
)	

THIS MATTER is before the Court *sua sponte*.

The *pro se* Plaintiff filed this action along with an Application to Proceed in District Court without Prepaying Fees or Costs. [Docs. 1, 2]. On December 14, 2022, the Court denied the Application and ordered the Plaintiff to pay the filing fee or file an amended Application within 14 days. [Doc. 3]. He was cautioned that, “[i]f [he] fails to timely comply with this Order, this case will be dismissed and closed without further notice.” [Id. at 3]. The Plaintiff has not paid the fee or filed an amended Application, and the time to do so has expired. Moreover, mail that the Court has sent to the Plaintiff at his address of record has been returned as undeliverable. [See Doc. 6].

The Plaintiff appears to have abandoned this action. Therefore, this action will be dismissed without prejudice. Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); Link v. Wabash R.R. Co., 370 U.S. 626, 631-33 (1962) (although Rule 41(b) does not expressly provide for *sua sponte* dismissal, a district court has the inherent power to dismiss a case for lack of

prosecution or violation of a court order).

IT IS, THEREFORE, ORDERED that:

1. This action is **DISMISSED** without prejudice for Plaintiff's failure to comply with the Court's December 14, 2022 Order.
2. The Clerk of this Court is directed to close this case.

Signed: January 30, 2023



Robert J. Conrad, Jr.
United States District Judge 